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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/659,760	09/10/2003	Thomas L. C. Simpson	EIS-6066 (1417G P 921)	4834
29290 7590 02/20/2009 BAXTER HEALTHCARE CORPORATION 1 BAXTER PARKWAY DF2-2E DEERFIELD, IL 60015				
EXAMINER NGUYEN, HIEP VAN				
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3686				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/659,760

Applicant(s)

SIMPSON ET AL.

Examiner

HIEP NGUYEN

Art Unit

3686

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 January 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-58 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-58 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SG/US)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. Claims 1-58 have been examined. Claims 18 and 33 have been amended. No new matter has been added.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-58 are rejected under 35 U.S.C. 103(a) as being unpatentable over Reuss et al. (US. 6,406,426) in view of Causey, III et al. (US. 6,641,533.)

4. With respect to Claim 1, Reuss et al. teaches a system for reporting on integrity of a wireless communication link within a healthcare facility comprising:

a module associated with a medication treatment application device, the module having a status information output responsive to a signal output generated by the medication treatment application device ('426; Col. 3, lines 45-60);

a wireless remote device within the healthcare facility having a message indicator responsive to the status information output transmitted over the wireless communication

link and representative of the signal generated by the medication treatment application device ('426; Col. 4, lines 8-22);

Reuss et al. does not disclose software installed on the wireless remote device having a time-out output; wherein the time-out output indicates loss of the wireless communication link.

Causey, III et al. further discloses the application of various software installed on the wireless remote device ('533; Col. 2, lines 50-55 remote programmer considered as PDA; Col. 18, lines 19-37: display of various icons representative of different programs considered as software installed in wireless remote device) having a time-out output; wherein the time-out output indicates loss of the wireless communication link ('533; Col./Line 11/65-12/4.)

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Reuss et al. and Causey, III et al. for the utilization of wireless remote device with said medical treatment device ('533; Abstract.)

Claims 18, 33, and 44 are rejected as the same reason with Claim 1.

5. With respect to Claim 2, the combined art teaches the system of claim 1.

Reuss et al. discloses further wherein the association between the module and the medication treatment application device results in at least some data within the status information output passing through the module ('426; Col. /line 3/45-4/52.)

Claims 19 and 34 are rejected as the same reason with Claim 2.

6. With respect to Claim 3, the combined art teaches the system of claim 1.

Reuss et al. discloses further wherein the medication treatment application device is an infusion pump for administering an infusion to a patient ('426; Col. 1, lines 19-23; Col. 3, lines 45-53.)

Claims 20 and 35 are rejected as the same reason with Claim 3.

7. With respect to Claim 4, the combined art teaches the system of claim 1.

Causey, III et al. discloses further wherein the output generated by the medication treatment device includes data related to an alarm condition ('533; Col. 13, lines 21-23.)

Claim 21, 36, and 45 are rejected as the same reason with Claim 4.

8. With respect to Claim 5, the combined art teaches the system of claim 1.

Reuss et al. discloses further wherein the output generated by the medication treatment device includes data related to an alert condition ('426; Col. 3, lines 61-64.)

Claims 22, 37 and 46 are rejected as the same reason with Claim 5.

9. With respect to Claim 6, the combined art teaches the system of claim 1.

Reuss et al. discloses further wherein the output generated by the medication treatment device includes data related to an infusion volume rate ('426; Col. 7, lines 27-31.)

Claims 23, 38 and 47 are rejected as the same reason with Claim 6.

10. With respect to Claim 7, the combined art does not disclose further wherein the output generated by the medication treatment device includes data related to time remaining before an infusion bag is emptied.

However, official notice is taken that the time warning signal for fluid remaining in IV bag has been known as a basis for hospital nurses in removing of IV bag from the patient.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teachings of Reuss et al./Causey, III et al. with the warning signal before an infusion bag emptied.

Claims 24, 39, and 48 are rejected as the same reason with claim 7.

11. With respect to Claim 8, the combined art teaches the system of claim 1.

Reuss et al. discloses further wherein the wireless remote device is a personal digital assistant ('426; Col. 9, lines 2-30 PDA device.)

Claims 41 and 49 are rejected as the same reason with Claim 8.

12. With respect to Claims 9, the combined art teaches the system of claim 1.

Reuss et al. discloses further wherein the wireless communication link operates within a radio frequency ('533; Col. 17, lines 28-29.)

Claims 25 and 50 are rejected as the same reason with Claim 9.

13. With respect to Claims 10, 11, 12, the combined art does not disclose wherein the radio frequency is within the 2.4 gigahertz band, and within the 2.45 gigahertz band, and within the 5 gigahertz band.

However, Official notice is taken that said range of radio frequencies has been known as a basis for the application of PDA devices.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teachings of Reuss et al./Causey, III et al. related to frequency range of PDA devices.

Claims 26-28, 51-53 are rejected as the same reason with Claims 10, 11, 12.

14. With respect to Claim 13, the combined art teaches the system of claim 1.

Reuss et al. discloses further wherein the message indicator is an audible alarm ('426; Col. 11, lines 8-10.)

Claims 29 and 54 are rejected as the same reason with Claim 13.

15. With respect to Claim 14, the combined art teaches the system of claim 1.

Reuss et al. discloses further wherein the message indicator is a visual display ('426; Col. 11, lines 4-10 visual display i.e. LCD's.)

Claim 55 is rejected as the same reason with Claim 14.

16. With respect to Claim 15, the combined art teaches the system of claim 1.

Causey, III et al. discloses further wherein the audible alarm produces an audible sound in response to the time-out output ('533; Col./line 13/61-14/7.)

Claims 30, 40 and 56 are rejected as the same reason with Claim 15.

17. With respect to Claim 16, the combined art teaches the system of claim 14.

Causey et al. disclose further wherein an icon responsive to the time-out output is provided on the visual display ('533; Fig 22: time output).

Claims 31, 42 and 57 are rejected as the same reason with Claim 16.

18. With respect to Claim 17, the combined art teaches the system of claim 14.

Causey, III et al. discloses further wherein a pop-up window is provided on the visual display in response to the time-out output ('533, Figs. 22 & 24 pop-up window showing time).

Claim 32, 43 and 58 are rejected as the same reason with Claim 17.

Response to Amendment/Arguments

19. Applicant's arguments filed 01/09/2009 have been fully considered but they are not persuasive.

20. Independent claims 18 and 33 have been amended to include "...remotely from the medication treatment application device..." (Claim 18), "...by polling or monitoring the communication link to actively test its integrity and generating the time-out output..." (Claim 33)

21. In the remark filed 01/09/2009, the Applicant argues that the teachings of Causey et al. does not disclose a time-out output remote from the medication treatment

application device and polling/monitoring the communication link to actively test its integrity and generating the time-out output.

22. In response to Applicant's arguments, the Examiner respectfully disagrees the inaction on the part of the combined art's teaching regarding a time-out output remote from the medication treatment application device and polling/monitoring the communication link to actively test its integrity and generating the time-out output. Causey et al. discloses a time-out output device (i. e. PDA) to remotely link to the communication for the evaluation, analysis, calibration ('533; Col. 14, lines 45-67; col. 16, lines 3-27.) Therefore, given the broadest reasonable interpretation to one of ordinary skill in the art, it is submit that a time-out output device in the combined art's teachings is as in a form of a time-out output remote from the medication treatment application device and polling/monitoring the communication link to actively test its integrity and generating the time-out output as described by the Applicant.

Therefore, the Examiner maintains the rejection to Applicants' claims.

Conclusion

23. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

24. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

25. Any inquiry concerning this communication or earlier communications from the examiner should be directed to HIEP NGUYEN whose telephone number is (571) 270-5211. The examiner can normally be reached on Monday through Friday 7:30AM-5:00PM.

26. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jerry O'Connor can be reached on (571) 272-6787. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

27. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or (571) 272-1000.

/H. N./
Examiner, Art Unit 3686
February 14, 2009

/Gerald J. O'Connor/
Supervisory Patent Examiner
Group Art Unit 3686